

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4742 OF 2005

IN
CRI.APPEAL NO. OF 2005

The State of Maharashtra ..Applicant

Vs.

Atmaram Ramchandra
Dherange and Ors. ..Respondents

Mrs.A.S.Pai, APP for applicant-State
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CORAM: SMT.V.K.TAHILRAMANI, J.
DATE : NOVEMBER 27, 2007

P.C.

1. Heard the learned APP for the applicant-State.

2. The applicant has filed this application for leave to file appeal against the judgment and order dated 17.12.2004 passed by the learned Special/Vth Ad-hoc Additional Sessions Judge, Pune in Special Atrocity Case No.18 of 2000. By the said judgment and order, the learned Special Judge acquitted the Respondents-accused of the offences under Sections 147,148, 324, 341, 427, 452, 504, 506 r.w. 149 r.w. 34 of IPC and 3(1)(x) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities Act,

1989, 7(1)(d) of Protection of Civil Rights Act.

3. I have perused the judgment and order and the evidence produced by the learned APP for the applicant-State.

4. The case of P.W.1- Dattatraya is that he along with his wife and others were proceeding to cut trees. At that time, Respondent No.2 and his brothers were present. The Respondent No.1 Atmaram stated to his brother to bring sickle to cut Dattu as he has become very fat. Accused Ramesh was having a sickle. Thereafter, when the complainant reached Wadgaon Kashimbe, at that time a blue Tempo came there. There were three persons in the cabin of the Tempo. Person sitting on the cleaner side, tried to pull the complainant from the tractor but sister of complainant i.e. Suman intervened. The person pulled hand of Suman due to which, she fell down from the tractor and sustained injuries. Thereafter, Tempo proceeded towards Manchar.

5. As far as the offence under Section 3(1)(x) of the S.C.S.T. (Prevention of Atrocities) Act is concerned, none of the witnesses have stated about

any specific abuses or specific threats. Moreover, complainant neither in the complaint nor in his further statement, has stated names of the accused persons in the Tempo. However, in his deposition before the Court, he has stated that Respondent Nos.2 and 3 were there in the Tempo and he does not know the name of the third person in the Tempo.

6. There are material discrepancies in the evidence of the complainant and the other witnesses. So also there are material omissions in the evidence of the witnesses. These omissions and discrepancies go to the root of the matter. It is the case of the complainant that he had also got injured in the incident, however, there is no medical certificate on record. Neither is there any allegation in the complaint nor in the supplementary statement of the complainant that Suman was pulled and she had sustained injuries. As per the complaint Exhibit-20 Respondent No.2 Ramesh was armed with sickle. However, in the evidence, the complainant has stated that Respondent No.1 Atmaram was armed with sickle. Moreover, complainant has stated that Respondent No.1 said to his brother to bring sickle, cut Dattu

as he has become very fat. The complaint is totally silent about the Respondent No.1 Atmaram uttering such words or any such instigation and on account of said instigation, other accused i.e. three brothers of Atmaram ran towards the complainant. Due to this he got frightened and hence, they started their tractor and proceeded towards Manchar. This omission is of major nature. Looking to the material discrepancies as well as major omissions in the evidence of the complainant and the other witnesses, the learned Special Judge has acquitted the Respondents-accused of the offences charged. Looking to the evidence on record, I am of the opinion that the view taken by the learned Special Judge is a reasonable and possible view.

7. It is well settled that if the view of acquittal could have been reasonably arrived at then the mere circumstance that the appellate Court would have taken a different view, would be no ground to interfere. In this connection, there is no dearth of authorities but to eschew prolixity, I am referring to only two of them i.e. **AIR 1971 S.C. 66 Khedu Mohton and Ors. Vs. State of Bihar**

and C. Anthony Vs. K.G.Raghavan Nair (2003) 1 SCC

1. In the case of **C.Anthony**, the Supreme Court has observed that unless the findings of the trial Court are perverse or contrary to the material on record, the High Court cannot in appeal substitute its findings, merely because another contrary opinion was possible on the basis of material on record. As stated earlier, the view taken by the learned Special Judge is a reasonable and possible view, hence, no interference is called for.

8. In this view of the matter, application for leave to appeal is rejected. Consequently, appeal stands dismissed.

[SMT. V.K.TAHILRAMANI, J.]